

## 1 IN THE UNITED STATES DISTRICT COURT

## 2 FOR THE NORTHERN DISTRICT OF CALIFORNIA

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5 TOMAS L. MENEWEATHER,

No. C 07-04204 SBA (PR)

6 Plaintiff,

7  
**ORDER DIRECTING PLAINTIFF TO  
PROVIDE REQUIRED INFORMATION  
NECESSARY TO LOCATE  
DEFENDANTS RINCON AND REYES**

8 B. POWELL, et al.,

9 Defendants.

10 /

11 Plaintiff filed the instant pro se civil rights complaint under 42 U.S.C. § 1983. The Court  
12 issued an Order of Service, directing the United States Marshal to serve a summons and complaint  
13 on Defendants.14 Service has been ineffective on Defendants Rincon and Reyes. The Court has been informed  
15 that there are two officers with the last name of Rincon at Salinas Valley State Prison (SVSP) and  
16 that there are five officers with the last name of Reyes at SVSP.17 As Plaintiff is proceeding in forma pauperis (IFP), he is responsible for providing the Court  
18 with current addresses for all Defendants so that service can be accomplished. See Walker v.  
19 Sumner, 14 F.3d 1415, 1422 (9th Cir. 1994); Sellers v. United States, 902 F.2d 598, 603 (7th Cir.  
20 1990).21 Pursuant to Fed. R. Civ. P. 4(m), if a complaint is not served within 120 days from the filing  
22 of the complaint, it may be dismissed without prejudice for failure of service. When advised of a  
23 problem accomplishing service, a pro se litigant proceeding IFP must "attempt to remedy any  
24 apparent defects of which [he] has knowledge." Rochon v. Dawson, 828 F.2d 1107, 1110 (5th Cir.  
25 1987). If the marshal is unable to effectuate service through no fault of his own, e.g., because  
26 Plaintiff failed to provide sufficient information or because the defendant is not where Plaintiff  
27 claims, and Plaintiff is informed, Plaintiff must seek to remedy the situation or face dismissal. See  
28 Walker, 14 F.3d at 1421-22 (prisoner failed to show cause why prison official should not be

1 dismissed under Rule 4(m) because prisoner did not prove that he provided marshal with sufficient  
2 information to serve official or that he requested that official be served); see also Del Raine v.  
3 Williford, 32 F.3d 1024, 1029-31 (7th Cir. 1994) (prisoner failed to show good cause for failing to  
4 timely effect service on defendant because plaintiff did not provide marshal with copy of amended  
5 complaint until after more than 120 days after it was filed).

6 Service has been attempted by the United States Marshals Service and has failed with respect  
7 to the aforementioned Defendants.

8 IT IS HEREBY ORDERED THAT within **thirty (30) days** of the date of this Order, Plaintiff  
9 must provide the Court with the required information necessary to locate each of these Defendants,  
10 including the first name or initial of Defendants Rincon and Reyes. Failure to do so shall result in  
11 the dismissal of all claims against these Defendants. If Plaintiff provides the Court with  
12 aforementioned required information, service shall again be attempted. If service fails a second  
13 time, all claims against these Defendants shall be dismissed.

14 IT IS SO ORDERED.

15 DATED: 11/13/08

  
16 SAUNDRA BROWN ARMSTRONG  
United States District Judge

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1 UNITED STATES DISTRICT COURT  
2 FOR THE  
3 NORTHERN DISTRICT OF CALIFORNIA

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TOMAS L MENEWEATHER,  
Plaintiff,  
v.  
B POWELL et al,  
Defendant.

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Case Number: CV07-04204 SBA

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on November 14, 2008, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Tomas Lopez Meneweather D35219  
Salinas Valley State Prison  
P.O. Box 1050  
Soledad, CA 93960

Dated: November 14, 2008

Richard W. Wiking, Clerk  
By: LISA R CLARK, Deputy Clerk